

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF JACKSON

PEOPLE OF THE STATE OF MICHIGAN,

File No. 20-3171-FY

Plaintiff,

Hon. Thomas D. Wilson

v

PAUL EDWARD BELLAR,

Defendant.

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William Rollstin, P40771
John S. Pallas, P42512
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DEFENDANT'S MOTION TO DISMISS
BASED UPON THE DEFENSE OF ENTRAPMENT

NOW COMES the Defendant, Paul Edward Bellar, by and through his attorney, Andrew P. Kirkpatrick of Dungan & Kirkpatrick, P.L.L.C., and in support of motion, states as follows

1. Currently Mr. Bellar is charged with providing material support for acts of terrorism, contrary to MCL 750.543k(1)(b), one count of membership in a gang attempting to commit material support for acts of terrorism, contrary to MCL 750.411u, and one count of possession of a firearm during the commission of a felony (felony-firearm), contrary to MCL

750.227b.

2. It is clear from the investigation and the preliminary exam that was held in this matter that the "act of terrorism" is the alleged plot to Kidnap the Governor of Michigan.

3. It is also clear that the alleged plot to Kidnap the Governor was developed by Adam Fox, was planned by Adam Fox and was planned long after Mr. Bellar left the group and moved to the State of South Carolina.

4. Adam Fox was not a member of the Wolverine Watchman, he was in charge of his own Militia, the 3 precentors.

5. Adam Fox attended a total of 2 training sessions with Mr. Bellar, both of which were set up by, or paid for by, the FBI, through their informant.

6. Mr. Bellar made it known to the FBI, through their informant, that he thought Adam Fox was crazy and he did not want anything to do with him.

7. Mr. Bellar also specifically denied a request by Adam Fox to take an oath into his group.

8. But for Adam Fox, Mr. Bellar would not have been charged with any criminal charges.

9. The informant for the FBI actually made friends with Adam Fox on Face book, called him directly on June 14, 2020. During that phone call the informant spoke to Adam Fox for over 20 minutes, with the FBI agents present. It was during this phone call that the informant, in the presence of the FBI agents, personally invited Adam Fox to train with the Wolverine Watchmen.

10. Mr. Bellar was not present during the phone call between the informant and Adam

Fox, when Adam Fox was invited to join the Wolverine Watchmen for training by the FBI.

11. Mr. Bellar did not play any part in Adam Fox coming to training with the Wolverine Watchmen.

12. For the reasons set forth in the attached Brief in Support of this Motion, Mr. Bellar believes this Honorable Court will agree and find that the FBI, through their informant, entrapped Mr. Bellar by engaging in impermissible conduct and engaging in conduct so reprehensible that it cannot be tolerated by this Court, and the case should be dismissed.

WHEREFORE, based on the above and attached brief, Defendant respectfully requests that this Honorable Court dismiss the charges against him.

I DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

Dated: July 22, 2021


Andrew P. Kirkpatrick, F66842
Attorney for Defendant

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing was served upon Prosecuting Attorney by first class mail and email, on July 22, 2021 at the above address.

I HEREBY DECLARE THAT THE FOREGOING STATEMENT IS TRUE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.


Kellie Woods, Secretary to Andrew P. Kirkpatrick

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**BRIEF IN SUPPORT OF DEFENDANT'S MOTION
TO DISMISS BASED UPON THE DEFENSE OF ENTRAPMENT**

NOW COMES the Defendant, Paul Bellar, by and through his attorney, Andrew P.

Kirkpatrick, and in support of his motion to dismiss based upon entrapment, states as follows:

STATEMENT OF FACTS

Currently Mr. Bellar is charged with providing material support for acts of terrorism, contrary to MCL 750.543k(1)(b), one count of membership in a gang attempting to commit material support for acts of terrorism, contrary to MCL 750.411u, and one count of possession of a firearm during the commission of a felony (felony-firearm), contrary to MCL 750.227b.

It is clear from the People's case that the "terrorist" act was the planned abduction of Governor Whitmer. Prior to the plan to kidnap the Governor, there were no terrorist acts that occurred. There were inappropriate comments made by Mr. Bellar, there were meetings that he attended and there was training that he attended in preparation of potential civil unrest in the United States and the need to be prepared for it. However, during this entire time, he never violated any laws of the United States or the State of Michigan and ultimately left the State of Michigan the end of July, 2020. In fact, the testimony is clear that at every protest attended by Mr. Bellar, he was not arrested or accused of breaking any laws. (PE Tr. Vol. 1 pg.229 lines 2-17)

The main actor in the plot to kidnap Governor Whitmer was Adam Fox. This is undisputed from the record and the investigation. (PE Vol 1 pg. 261 lines 15-25) The informant for the FBI actually made friends with Adam Fox on Face book, called him directly on June 14, 2020. During that phone call the informant spoke to Adam Fox for over 20 minutes, with the FBI agents present. It was during this phone call that the informant, in the presence of the FBI agents, personally invited Adam Fox to train with the Wolverine Watchmen. (Pe Tr. Vol. 3 pg. 172-173) This phone call will be played at the evidentiary hearing. It is clear from this call that Adam Fox was mentally unstable, and the FBI knew that.

Mr. Bellar was not present during the phone call between the informant and Adam Fox, when Adam Fox was invited to join the Wolverine Watchmen for training. (PE Tr. Vol. 3 pg. 172 lines 1-25 pg. 173 lines 1-25, pg. 174 lines 1-8) Mr. Bellar only attended two training sessions with Adam Fox, and never actually trained him. The first training occurred in Munith Michigan. The second training occurred in Wisconsin. The only reason that Mr. Bellar was able

to attend the training in Wisconsin is because it was paid for in full by the FBI, through the informant. Neither training was set up by Mr. Bellar, nor was he involved in any invitations to Adam Fox.

Mr. Bellar made it very clear to the informant, on more than one occasion, that Adam Fox was crazy. (PE Tr. Vol. 1 pg. 248 lines 15-24 and PE Tr. Vol. 3 pg 178 lines 20-25 pg. 179 line 1) At a meeting Mr. Bellar attended with Adam Fox, Adam Fox actually wanted him to swear into Adam Fox's group, the The Three Precentors, and Mr. Bellar declined. (PE Tr. Vol 1 pg 262 line 13-18) When asked to explain what the Three Precentors were, FBI agent Impola testified. "Well the Michigan Patriot Three Precentors was a Face book group and an umbrella organization created by Adam Fox as a cover for recruiting and communicating amongst operators that he'd chosen to attack the governor." (PE Vol 1 pg. 262 lines 9-12)

The true "plan" to kidnap the Governor did not start until the early part of August, 2020. (PE Tr. Vol. 3 pg. 197 lines 14-18) On August 4, 2020, Adam Fox began laying out his plan to kidnap the Governor. Adam Fox stated that he wanted to Rock and Roll in 6 months, the next field training will be for work and not play, the stated attack plan is not unrealistic, but the group is not currently prepared and needs to put work in to get prepared. (PE Tr. Vol. 3 pg.193 lines 4-25 pg. 226 line 1) He further states that they are going to eat, sleep and shit preparations and to think/train about it everyday. (PE Tr. Vol. 3 pg. 193 lines 16-25) This was after Paul Bellar had left the State of Michigan and was no longer involved with the Watchmen or training. (PE Tr. Vol. 3 pg. 194 lines 1-3) He never took part in any training, planning, surveillance, preparation or involvement in the "plan" to kidnap the Governor. (PE Tr. Vol. 3 pg. 203 lines 15-25, pg. 204 lines 1-25 pg., pg. 205 lines 1-25, pg. 206 lines 1-25 and pg. 207 lines 1-23)

Adam Fox hand selected his own medic, who was not even trained by Mr. Bellar. (PE Tr. Vol. 3 pg. 192 lines 13-25 pg.) In fact, the record is clear that it was Adam Fox who picked the group he ultimately was using in Northern Michigan to plan the attack on the Governor, not Mr. Bellar. (PE Tr. Vol. 3 pg. 190 lines 2-16 pg) (PE Tr. Vol. 3 pg. 191 lines 13-25 pg. 192 line 1-25)

The record is clear that “but for” the FBI, through their informant, inviting Adam Fox into this group, charges would have never been brought against Mr. Bellar. The FBI was aware of how violent Adam Fox was, this is clear from the phone conversation between the informant and Adam Fox. At exam, FBI agent Impola tried to down play his knowledge of Adam Fox, his tendency for violence, the information he learned, etc. The Court can read that testimony in Volume 2 pages 40-58 and it should become clear what he knew and what he did not know.

The FBI agents knew from Mr. Bellar, the phone conversation, as well as other members, that Adam Fox was “crazy” and a “loose cannon” and other issues with his mental state, and yet, the FBI took it upon themselves to go ahead and invite him into the group anyway. Not only did the FBI invite Adam Fox to training, they provided him with Face book login and secured wire chat access. (PE Vol 2 pg 54-55) All the actions by the FBI, through their informant, were clearly “impermissible conduct” that is “so reprehensible that it cannot be tolerated by the court.”

BURDEN OF PROOF

When the defense of entrapment is raised, the trial court must conduct an evidentiary hearing outside the presence of the jury. *People v. D'Angelo*, 401 Mich. 167, 174, 257 N.W.2d 655 (1977) at 183. During the hearing, the defendant will have the burden of proving by a preponderance of the evidence that he was entrapped. *Id.* at 182, 257 N.W.2d 655.

ARGUMENT

Entrapment occurs if “(1) the police engage in impermissible conduct that would induce an otherwise law-abiding person to commit a crime in similar circumstances, or (2) the police engage in conduct so reprehensible that it cannot be tolerated by the court.” *People v. McGee*, 247 Mich.App. 325, 344, 636 N.W.2d 531 (2001) at 344–345, 636. The test for entrapment is objective and “focuses on the propriety of the government's conduct that resulted in the charges against the defendant rather than on the defendant's predisposition to commit the crime.” *People v. Hampton*, 237 Mich.App. 143, 156, 603 N.W.2d 270 (1999). “Entrapment will not be found where the police did nothing more than present the defendant with the opportunity to commit the crime of which he was convicted.” *McGee*, supra at 345, 636 N.W.2d 531. The objective entrapment test must determine whether the police conduct in question has as its “probable and likely outcome the instigation rather than the detection of criminal activity.” *People v. Juillet*, 439 Mich 23, (1991) at 53-54.

In the case at bar, it is clear that Mr. Bellar had committed no crimes. The sole basis for these charges are the ultimate actions of Adam Fox, not Mr. Bellar. Mr. Bellar did not invite Adam Fox to the **ONE** training session he attending in Michigan with the Watchmen, the FBI did. Mr. Bellar would not have attended the second training in Wisconsin, which is the only other training that Adam Fox was present for, if it had not been for the FBI informant covering all the expenses to get there, with money provided by the FBI.

Mr. Bellar made it clear he thought Adam Fox was crazy, the FBI should have realized this during the phone call between their informant and Adam Fox, as well as the intelligence they had. Yet, they invited him to train anyway. The FBI's desire to build a case outweighed their

common sense and decision making. By calling and inviting Adam Fox, their actions were clearly “impermissible conduct” that is “so reprehensible that it cannot be tolerated by the court.”

CONCLUSION

In a leading Michigan Supreme Court case regarding entrapment, the Court said in dicta “Unlike Brown, however, in this case the police encouraged and were responsible for the instigation of a relationship that previously did not exist and, in the course of doing so, played on a police-manufactured friendship. For that reason, which we find to distinguish these two cases, we find reprehensibility amounting to entrapment.” *People v Juillet*, 439 Mich 23, (1991) at 65.

That statement is directly on point with the facts of this case. But for the phone call by the FBI informant, under the direction of the FBI agents, to reach out and invite Adam Fox, an individual known to them to be dangerous and unstable, these charges would have never been brought against Mr. Bellar.

In reviewing the transcripts and the law above, all the charges against Mr. Bellar should be dismissed as there was clearly an entrapment by the FBI.

Respectfully submitted,

Dated: July 22, 2021



Andrew P. Kirkpatrick, P66842
Attorney for Defendant

PROOF OF SERVICE

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